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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1619 OF 1996

Wateresila Dispel India Ltd. ... Petitioner

Versus

The Commissioner of Customs
and Ors. ... Respondents

Mr. Prakash Shah i/by PDS Legal for Petitioner.

Mrs. S.V. Bharucha with Mr. D.A. Dubey and Mr. H.P. Chaturvedi for Respondents.

CORAM: F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED: SEPTEMBER 06, 2007

P.C.:

. At the time when the Petition was admitted, the learned counsel had relied on the judgment of the Orisa High Court in the matter of interpretation of the definition which had been held in favour of the assessee. The Supreme Court thereafter has reversed the judgment of the Orissa High Court.

. At the time of filing of the Petition, the Petitioner had also challenged the order dated 8.7.1996. Subsequent to filing of this petition, an order came to be passed on 25.9.1996. The Petitioner has amended the Petition and also incorporated the challenge to that order in the

present petition.

. Considering that the main controversy which was based on the judgement of the Orissa High Court is no longer available to the Petitioner herein, in our opinion, the appropriate recourse to the Petitioner herein is to prefer appeals against the orders dated 8.7.1996 and 25.9.1996 before the competent appellate authority. Considering that the Petitioner was bonafide prosecuting these proceeding, needless to say that the time taken before this court would be excluded by the concerned Appellate Forum.

. Further if the Petitioner before this court prefers appeals, before the respective appellate authority within four weeks from today, they will consider the application made by the Petitioners herein, for condonation of delay and the delay be condoned and the matter be heard on merits.

. There is interim relief granted in their favour by this court. The said interim relief be continued till the hearing and final disposal of the respective appeals preferred by the Petitioners.

. The Bank guarantee to be continued and kept alive till the hearing and final disposal of the appeals

and for the further period of four weeks thereafter.

. Petition disposed off accordingly. No order as to costs.

(J.P. DEVADHAR, J.) **(F.I.REBELLO, J.)**